[CONFERENCE COMMITTEE PRINT]

SUMMARY OF THE CONFERENCE AGREEMENT

ON

H.R. 3

THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

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TRADE AND TARIFF LAWS; TRADE AGREEMENTS

(Subconference No. 1)

I. National Trade Policy; Advice and Consultations

A. Requires the President's annual report on the trade agreements program to include an *annual trade policy agenda* setting forth trade policy objectives and priorities, proposed actions and legislation to achieve them, and progress made toward their accomplishment; the USTR must consult with Congressional committees on objectives and their status.

B. Expands the *private sector advisory committee functions* to include information and advice on development and implementation of overall U.S. trade policy and priorities, as well as on negotiation issues; expands the advisory committee structure and advice to the Congress.

C. Strengthens the *prenegotiation procedural requirements* under existing law (e.g., public hearings, advice from the ITC) to include nontariff as well as tariff matters and trade policy development and priorities.

D. Expands *consultation requirements* between the USTR and the Congress:

1. Requires consultation and advice from the existing congressional advisors on trade policy development and priorities, as well as on negotiations; provides for additional special congressional advisors on specific policy matters or negotiations.

2. Requires USTR consultations on a continuing basis with the House Ways and Means and Senate Finance Committees on the development, administration, and implementation of overall U.S. trade policy matters and specific actions under the trade laws.

II. Trade Agreement Negotiating Authority

A. *Nontariff barrier agreements.*—Extends nontariff agreement negotiation authority for *5 years,* until *May 31, 1993.* Extends "fast track" Congressional approval procedure of implementing legislation for agreements entered into on or before May 31, 1991, with extension until May 31, 1993, unless either House passes disapproval resolution before May 31, 1991, because of insufficient progress in negotiations or extension is not requested. The President and the Advisory Committee for Trade Policy and Negotiations must submit progress reports on negotiations 90 days before expiration of the original "fast track" extension as a precondition to further extension.

"Reverse fast track". The "fast track" approval procedure is terminated if the Senate Finance and House Ways and Means and Rules Committees report and both the House and Senate separate-

ly pass disapproval resolutions under the "fast track" within any 60 legislative day period because the USTR fails or refuses to consult with the Congress on trade negotiations and trade agreements.

B. *Tariff agreements.*—Reestablishing Presidential authority to enter into multilateral tariff agreements until *May 31, 1993,* and to *proclaim* changes in U.S. rates of duty required or appropriate to carry out such agreements. Maximum 50 percent cuts on all articles, except duties of 5 percent ad valorem or below may be reduced to zero, under proclamation authority. Duty reductions on any article cannot exceed 3 percent ad valorem per year, or one-tenth of total reduction, whichever is greater; no staging requirement if ITC determines there is no U.S. production of the article; rounding authority identical to Trade Act of 1974. President must take into account ITC and private sector advisory committee advice identifying import sensitive or potentially import sensitive articles. Any duty reductions exceeding 50 percent or any tariff increases would be subject to "fast track" Congressional approval.

C. *Bilateral trade agreements.*—Extends authority to enter into bilateral tariff and nontariff barrier agreements until *May 31, 1993,* if certain pre-negotiation conditions are met, subject to Congressional approval under "fast track" implementing procedure and subject to same possible disapproval and "reverse fast track" procedures as for multilateral authority.

D. *Restrictions on trade agreements.*—

1. Requires that the President's statement accompanying submission of trade agreements to Congress under the "fast track" include a description of the extent foreign parties to the agreement maintain noncommercial *state trading enterprises* that may adversely affect or nullify or impair U.S. benefits under the trade agreement involved, and whether and to what extent the trade agreement deals with or affects purchases or sales of such enterprises.

2. Agreements must make progress in achieving *applicable negotiating objectives.*

3. Requires the President to recommend that trade agreement benefits and obligations apply solely to parties to the agreement, if such treatment is consistent with the agreement (*conditional MFN*).

4. Requires the President to determine before May 31, 1993, whether any major industrial country has failed to make concessions providing substantially equivalent competitive opportunities for U.S. commerce, and to recommend implementing legislation to restore equivalence.

E. *Special trade agreement authorities.*—

1. *Harmonized Commodity Description and Coding System.*—Implements the International Convention effective on date of enactment and the Harmonized Tariff Schedules on January 1, 1989.

2. *U.S.-European Community (EC) citrus and pasta agreement.*—Authorizes the President to implement U.S. duty reductions agreed in the U.S.-EC citrus/pasta agreement and to modify or terminate any reductions at any time. Semiannual section 301 report must include assessment of whether the EC is in compliance with the pasta agreement (Statement of Man-

agers to state noncompliance should be treated as a trade agreement violation under section 301).

3. *GATT accession of state trading regimes.*—Before a major country accedes to the GATT, the President must determine whether state trading enterprises account for a significant share of the country's trade and unduly burden and restrict or adversely affect U.S. trade or the U.S. economy. The GATT shall not apply between the United States and that country unless it enters into an agreement with the United States to conduct state trading enterprises on a commercial basis or a bill is enacted under the "fast track" procedures approving extension of the agreement to that country.

4. *Compensation authority.*—Provides compensation authority for section 301 actions and tariff reclassifications, as well as import relief actions, if necessary or appropriate to meet U.S. international obligations. General tariff authority limits apply while in effect; present law (30 percent duty reduction limit) applies after May 31, 1993.

5. *Currency exchange rates.*—Requires that whenever in the course of negotiating a trade agreement the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations manipulates its currency exchange rate, the President shall initiate exchange rate negotiations with that country on an expedited basis.

F. *Negotiating objectives.*—Sets forth overall and principal U.S. trade negotiating objectives on the following subjects:

1. Agriculture,
2. Dispute settlement,
3. Unfair trade practices (e.g., diversionary dumping),
4. Services,
5. Intellectual property,
6. Foreign direct investment,
7. Import safeguards,
8. Improvement of GATT and MTN agreements,
9. Specific barriers,
10. Worker rights,
11. High technology,
12. Border tax adjustments,
13. Transparency,
14. Developing countries,
15. Current account surpluses,
16. Trade and monetary coordination, and
17. State trading enterprises; unfair trade concession requirements.

III. Enforcement of U.S. Rights Under Trade Agreements and Response to Certain Foreign Trade Practices (Section 301 Reform)

A. *Transfers determination, decision-making and implementation authority.*—Transfers to the U.S. Trade Representative (USTR), from the President, the authority to make determinations of whether foreign practices meet section 301 criteria. Also transfers to the USTR, subject to the direction, if any, of the President, the

authorities in all cases to determine whether and what type of action is appropriate and to implement such action.

B. *Makes action mandatory for foreign trade agreement violations.*—Requires that in cases involving foreign violations of trade agreements or other "unjustifiable" practices, the USTR must take retaliatory action in an amount equivalent in value to the foreign burden or restriction on U.S. commerce. The form of retaliation would be at his discretion, with preference given to tariff rather than quota restrictions. No retaliation would be required:

1. If the GATT Contracting Parties determine or GATT panel reports the foreign practice does not violate or deny U.S. rights or does not deny or nullify or impair U.S. trade agreement benefits.
2. If the foreign government has agreed to eliminate or phase out the practice or has agreed to a satisfactory imminent solution to remove the burden or restriction on U.S. commerce.
3. If number 1 or 2 cannot be achieved, the foreign country has agreed to provide satisfactory compensatory trade benefits.
4. In extraordinary cases, where action would have an adverse impact on the U.S. economy substantially out of proportion to the benefits of action, taking into account the impact of not acting on the credibility of section 301.
5. If taking action would cause serious harm to the U.S. national security.

With respect to cases involving *"unreasonable"* or *"discriminatory" practices,* which do not violate U.S. trade agreement rights, the USTR would retain *discretionary authority* to retaliate as under present law. (The Statement of Managers will state there is a presumption that USTR would take action on such cases where it has a reasonable indication that such action will be effective in changing the country's practice or barrier).

Authorizes the USTR to enter into binding agreements that commit a foreign country to eliminate or phase out the practice, to eliminate the burden or restriction, or to provide satisfactory compensation. Any compensation agreement must provide trade benefits in the same or a closely related economic sector, unless such benefits are not feasible or would be more satisfactory in another sector.

C. *Reduces and imposes time limits for action.*—Requires USTR determinations on whether an act, policy, or practices is actionable under section 301 in all cases. Consultations must be initiated with the foreign government on the day USTR determines to initiate an investigation (may be delayed by up to 90 days if necessary to prepare the case). USTR must request dispute settlement proceedings, if any, if consultations are not concluded within 5 months. The USTR must make the *unfairness determination and decide what, if any, action to take within 12 months in subsidy and non-trade agreement cases* and *within 18 months in trade agreement cases other than subsidies. Action must be implemented within 30 days, subject to delay for up to 180 days* if the petitioner or domestic industry request or are responsible for a delay, or the USTR determines substantial progress is being made or delay is necessary or desirable to obtain U.S. rights or a satisfactory solution.

D. *Additional actionable practices.*—In addition to practices specifically actionable under current law, the following foreign country practices would be defined as "unreasonable" and actionable if the statutory criteria are met:

1. *Export targeting* that is a burden or restriction on U.S. commerce. Action is discretionary as for other unreasonable practices, except if no action is taken the USTR must convene a private sector panel to report on measures to promote the domestic industry's competitiveness.

2. A persistent pattern of conduct that denies certain specified *worker rights,* except if the USTR determines the foreign country has taken or is taking actions that demonstrate a significant and tangible overall advancement in providing the rights and standards throughout the country or the practices are not inconsistent with the country's level of economic development.

3. Denial of *market opportunities* in the form of toleration by a foreign government of systematic anti-competitive activities by or among private firms in that country that have the effect of restricting on a basis that is inconsistent with commercial considerations, access of U.S. goods to purchasing by those firms.

Reciprocal opportunities in the United States for foreign nationals and firms would be taken into account, as appropriate, in determining whether an act, policy, or practice is "unreasonable."

With respect to enumerated causes of action, the USTR would have discretion in initiation of cases to determine whether action would be effective in addressing the foreign country's barrier or practice.

USTR is required in the annual foreign trade barriers (national trade estimates) report to estimate, where feasible, the value of additional U.S. exports or investment that would have occurred in the previous year if each of the identified barriers did not exist. The next report will be submitted on April 30, 1989 and on March 31 in subsequent years.

USTR is required to initiate an investigation of Japanese barriers to U.S. architectural, engineering, construction, and consulting services in Japan.

E. Adds *modification and termination and monitoring authorities.*—

1. Allows modification or termination of section 301 retaliation at any time if the same exceptions criteria (described under B. above) are met as for the initial action, after public comments and consultation with domestic interests. Any action would terminate automatically after 4 years, subject to the petitioner or domestic industry requesting continuation and the USTR reviewing the actions.

Adds a requirement that the semiannual report to the Congress on section 301 cases describe the commercial effects of any actions.

2. Requires the USTR to monitor foreign country implementation of, or compliance with, any agreement to grant U.S. rights, to eliminate or phase out its practice, to remove the burden or restriction on U.S. commerce, or to provide compen-

satory benefits. If the foreign country is not implementing or complying with a settlement agreement, the USTR must take action, subject to the mandatory retaliation provisions and to the time limits and procedural requirements for initial section 301 actions.

F. Adds provisions to identify and deal with *trade liberalization priorities.* Within 30 days after submission to Congress of the foreign trade barriers report in 1989 and 1990, the USTR must:

1. Identify priority practices, including major barriers and trade distorting practices whose elimination is likely to have the most significant potential to increase U.S. exports. In determining priority practices USTR must take into account:

(a) the international competitive position and export potential of U.S. products and services:

(b) circumstances in which the sale of a small quantity of a product or service may be more significant than its value; and

(c) the measurable medium-term and long-term implications of government procurement commitments to U.S. exporters;

2. Identify priority foreign countries, taking into account the number and pervasiveness of the acts, policies, or practices included in the report and the level of U.S. exports of goods and services that could reasonably be expected if a country fully implemented its trade agreements, based on the international competitive position of such products and services; and

3. Estimate the amount by which U.S. exports would have increased during the preceding calendar year if those barriers and practices did not exist.

A report to Congress by USTR is required on the identification of priority countries and practices and on the trade estimates.

Within 21 days of filing the report with Congress, USTR must initiate section 301 investigations with respect to all the priority practices identified in the report for each of the priority countries. Investigations may be initiated for other priority practices.

During the consultations with a priority foreign country, the USTR must seek to negotiate an agreement which provides for:

a. the elimination of, or compensation for, the priority practices identified by the USTR, within 3 years of the date on which the investigation was initiated; and

b. the reduction of those practices over a 3-year period, with the expectation that U.S. exports to that country will, as a result, increase incrementally during each of the 3 years. An investigation must be suspended if an agreement is reached within the time limits prescribed generally. If the USTR determines that a foreign country is not in compliance with an agreement entered into under this section, he must continue the section 301 investigation which was suspended as a result of the agreement, applying the same time limits for investigation that were applicable prior to suspension. Section 301 provisions relating to USTR determinations and action apply. The USTR is not required to take action when any of the exceptions to action under section 301 apply.

The USTR must submit a report to Congress annually, beginning in 1990, which includes the following information:

a. revised estimates of the amount by which U.S. exports to a country would have increased in the absence of its identified priority practices;

b. in the case of a country that has entered into an agreement, evidence that demonstrates (in the form of increased U.S. exports during the previous year) that substantial progress has been made toward the goal of eliminating the priority practices;

c. in the case of a country that has not entered into or not complied with an agreement, evidence that demonstrates (in the form of increased U.S. exports) the elimination of the priority practices;

d. to the extent that evidence under paragraphs (b) and (c) cannot be provided, a description of the actions taken by the USTR under section 301 to eliminate the priority practices. The USTR may exclude any previously identified foreign country from the report in any calendar year after 1993 if, for the two previous years, the report demonstrated that all of the country's priority practices have been eliminated.

IV. Import Relief Under the Escape Clause (Section 201 Reform)

A. Reforms section 201 of the Trade Act of 1974 to encourage efforts by domestic industries to undertake actions to make a positive adjustment to import competition.

1. Defines *"positive adjustment"* as when (1) the domestic industry is able to compete successfully with imports after termination of action, or the domestic industry experiences an orderly transfer of resources to more productive pursuits, and (2) dislocated workers experience an orderly transition to productive pursuits.

2. Encourages petitioner to submit, at any time prior to the ITC injury determination, *a plan to promote positive adjustment* to import competition.

3. Provides petitioner with an *opportunity to consult* with other members of the domestic industry and with government officials concerning appropriate steps to facilitate positive adjustment. Authorizes firms and workers to submit individually, on a confidential basis, *commitments* regarding their individual steps to promote positive adjustment.

B. *Provisional relief.*—

1. Authorizes emergency import relief for *perishable agricultural products* within 28 days after filing a petition if the ITC has monitored imports for at least 90 days and the ITC makes an affirmative preliminary injury determination.

2. Requires ITC monitoring of *lamb imports* for 2 years and authorizes emergency import relief for *perishable agricultural products* within 28 days after filing a petition if the ITC has monitored imports for at least 90 days and the ITC makes an affirmative preliminary injury determination.

3. Authorizes provisional import relief within 127 days after a petition is filed if ITC makes an affirmative injury determination and also determines that *critical circumstances* exist.

C. *ITC investigation and procedures.*—

1. Requires ITC to make its injury determination and, when appropriate, its critical circumstances determination, within 120 days of petition (30-day extension authorized for extraordinarily complicated cases).

2. Requires ITC, in defining the domestic industry and determining serious injury, to consider only domestic production facilities.

3. Requires ITC, in determining *threat of serious injury,* to consider a decline in market share, diversions, and inability to maintain existing levels of R & D expenditures.

4. Clarifies that, in determining whether imports are a substantial cause of serious injury, ITC shall consider industry conditions over the relevant business cycle and shall not aggregate the causes of declining demand associated with a *recession* into a single cause of injury.

5. Clarifies that the ITC remedy recommendation will be based only on the recommendations of ITC Commissioners who voted affirmative on injury; however, other Commissioners may submit separate views on the issue of remedy.

6. Provides that, if *ITC* makes an affirmative injury finding, it *shall recommend* the action that would address the injury and be the most effective in facilitating efforts by the domestic industry to make a positive adjustment; such recommended action must be either tariffs, tariff-rate quota, quantitive restriction, adjustment measures, or a combination thereof.

7. Requires *expedited consideration of TAA petitions* from all workers and firms in the domestic industry subject to an affirmative injury finding by ITC.

8. Requires ITC remedy recommendation and report to the President within 6 months of petition.

D. *Presidential action.*—

1. Within 60 days of the ITC report, the *President shall take all appropriate and feasible action* within his power which he determines will facilitate efforts by the domestic industry to make a positive adjustment and will provide greater economic and social benefits than costs. Any import relief provided may not exceed the amount necessary to prevent or remedy the serious injury.

2. In determining what action is appropriate, the President is required to consider a number of factors, including the adjustment plan (if any), individual commitments, probable effectiveness of action to promote positive adjustment, other factors related to the national economic interest, and the national security interest.

3. *Expands the actions authorized* to be taken by the President to include import relief, adjustment measures, auctioned quotas, orderly marketing agreements, international negotiations, legislative proposals, and any other action within his power.

4. Authorizes action to be taken for up to 8 years (if action is for less than 8 years, authorizes an extension so that total action is for no more than 8 years).

E. *Post-investigation action.*—

1. Requires *ITC to monitor developments* in the industry, including efforts by the domestic industry to adjust, and to report thereon every 2 years. Authorizes the President to request ITC advice on probable economic effects of any proposed reduction, modification, or termination of action.

2. Authorizes the President, after 2 years have lapsed, to *reduce, modify, or terminate action* if either (1) the domestic industry requests it on the basis that it has made a positive adjustment, or (2) the President determines that changed circumstances warrant such reduction, modification, or termination.

3. Requires ITC to evaluate and *report on the effectiveness of the action* after its termination.

4. Prohibits a *subsequent investigation* with respect to the same product if import relief is provided, for a period of time equivalent to the period of import relief granted.

V. Trade Adjustment Assistance

A. *Eligibility expansion to secondary workers.*—

1. Expands eligibility to otherwise qualified workers or firms that supply *essential goods* (parts, materials, or components) or *essential services* to directly affected firms for their production of articles like or directly competitive with increased imports; effective 3 years after date of enactment if an import fee is imposed within two years.

2. Expands eligibility of workers in the oil and gas industry (exploration and drilling); effective on date of enactment and retroactively to workers laid off after September 30, 1985 covered by a certified petition filed within 90 days after enactment.

B. *Supplemental wage allowance.*—

1. Requires Department of Labor to establish a *demonstration project* to evaluate supplemental wage allowances as an option for workers qualified for trade readjustment allowances (TRA) who take a new full-time job paying less than their previous job.

2. The Secretary must submit a report to the Congress evaluating the results, with recommendations.

C. *Separation from employment.*—Specifies that the most recent separation from employment shall be used for determining the beginning of a worker's eligibility period. Applies on enactment and retroactively to workers who were separated from employment between August 13, 1981, and April 7, 1986, if they have been continuously unemployed since original layoff and are enrolled in training.

D. *Training requirement.*—Requires training as a condition for receiving weekly cash (TRA) benefits unless training is not feasible or appropriate. Statement of Managers to define that training is not necessarily appropriate if there is a reasonable prospect of re-

employment. Effective on enactment for workers certified eligible on or after that date.

E. *Breaks in training.*—Treats workers as participating in approved training and eligible for TRA benefits while in training during any training break of less than 2 weeks if the break is provided under such training program (e.g., semester breaks).

F. *Training cost entitlement.*—

1. Removes the appropriation limitation and requires the Secretary of Labor to approve training for a worker if the five criteria in present law are met, plus a new sixth criteria requiring training to be appropriate for suitable employment and available at a reasonable cost (guidelines in Statement of Managers). Fourth criteria would require that approved training be "reasonably" available. *Approval entitles the worker to payment of the cost* directly or through a voucher system, except that the *total annual training cost entitlement would be capped at $80 million.* Appropriated entitlement from general revenues until one year after import fee goes into effect. Effective on enactment for workers certified eligible on or after that date.

2. Remedial education is among the options for approved training; costs of on-the-job training must be paid in 12 equal monthly installments.

G. *Trust Fund.*—Establishes a Trust Fund consisting of revenues from an import fee to go into effect if and when the import fee is imposed; in the meantime the worker and firm TAA programs are funded from general revenues.

H. *Import fee.*—

1. President must seek GATT agreement and agreement of parties to bilateral free trade areas to permit imposition by countries of a small uniform duty on all imports (with limited exceptions) to fund TAA-type programs. The fee could not exceed program cost, up to a maximum level of 0.15 percent ad valorem.

2. Provides two years for negotiations to seek agreement. If the negotiations are successful, the fee would be imposed. If the negotiations are not successful, the President would decide whether the implementation of the fee was in the national economic interest. If he decides that the fee is not in the national economic interest, he would not implement the fee, but instead would report to the Congress on his decision and the reasons. The Congress would then have 90 days to pass a "fast-track" joint resolution disapproving the President's decision. This joint resolution could be vetoed, in which case the Congress would then have an override vote. If the override is successful, the fee would be implemented.

I. *Program administration.*—

1. *Commingling of funds.* Permits partial payment of TAA training costs from other Federal and State funds; permits training approval and total or partial nonreimbursable payment of training costs from private sources (subject to any wages received being deducted and nonreimbursable from TRA benefits); effective on date of enactment.

2. *Benefit information.* Strengthens and expands State agency benefit information and notice requirements, effective on date of enactment.

3. *Coordination.* Provides for coordination at the State level of the administration of training and other employment services between worker TAA and the dislocated worker program of the Job Training Partnership Act.

J. Extends *worker and firm TAA program authorization* for 2 years, from September 30, 1991 to *September 30, 1993.*

VI. Market Disruption by Imports From Communist Countries

Amends section 406 of the Trade Act of 1974 to define the terms "rapidly" and "significantly cause" and to clarify the factors which ITC is to consider in determining market disruption.

VII. Amendments to the Antidumping and Countervailing Duty Laws

A. *Subsidy provisions.*—

1. Clarifies the application of the countervailing duty law to *domestic subsidies* by requiring that the Commerce Department base its determination on whether a particular subsidy is in fact bestowed upon a specific industry or group of industries, or instead is bestowed upon industries in general.

2. Clarifies the application of the antidumping and countervailing duty laws to "leases equivalent to sales."

3. Requires cumulation of all subsidies provided to members of an *international consortium.*

4. Requires subsidies provided for a raw agricultural product to be deemed as subsidies provided for a processed agricultural product if certain conditions are met.

5. Clarifies that USTR has authority to revoke the injury test for any country that *violates a Subsidies Code commitment* to the U.S. Also requires USTR to review and report on Subsidies Code commitments by foreign countries, including compliance issues and policy recommendations for U.S. commitments policy.

B. *Dumping provisions.*—

1. Amends the antidumping law with respect to imports from *nonmarket economy countries* so that "foreign market value" would be determined using a constructed value methodology in which factors of production are valued from the best available information in a market economy country or countries. If adequate information is not available, the foreign market value may be based on export prices of such or similar merchandise from a market economy country or countries.

2. Establishes new procedures for domestic industries to request USTR to apply for antidumping actions by foreign countries as authorized under Article 12 of the GATT Antidumping Code when *third-country dumping* injures a U.S. industry.

3. Clarifies authority for Commerce, in antidumping investigations involving *constructed value,* to disregard actual prices *between related parties* for purchases of an input, and instead

use a reasonable estimate of the cost of production for such input.

4. Clarifies that different home market price movements for different forms of a product subject to an antidumping duty order may establish a *fictitious market.*

5. Limits the circumstances under which Commerce may institute *expedited reviews* of dumping determinations under section 736(c).

6. Requires expedited antidumping investigations of *short life cycle products involving multiple offenders* (2 or more dumping margins of 15 percent or more within an 8-year period).

C. *Material injury provisions.*—

1. Authorizes ITC to include producers or growers of a raw agricultural product as part of the domestic industry producing the processed product if certain conditions are met.

2. Clarifies that ITC is required, in determining material injury, to consider each of the specified factors in every case, and to explain its analysis of each factor. Clarifies that ITC is to consider price underselling, which does not require evidence of predatory pricing.

3. Clarifies that ITC should consider various economic factors in the context of the business cycle and conditions of competition relevant to the domestic industry.

4. Requires ITC to consider ability of domestic producers to develop and produce subsequent generations of a product; dumping findings in other GATT countries with respect to the same merchandise; and product-shifting between raw and processed agricultural products.

5. Authorizes ITC to cumulate imports from two or more countries in determining threat of material injury. Provides a *limited exception to mandatory cumulation* with respect to negligible imports and imports from Israel.

D. *Miscellaneous provisions.*—

1. Authorizes Commerce to *prevent circumvention* of antidumping or contervailing duty orders through assembly or finishing operations in the U.S. or in third countries, or through minor alterations of merchandise or later-developed products. Provides for consultations between Commerce and ITC in certain circumstances on whether inclusion of the merchandise is consistent with the ITC injury finding.

2. Authorizes restrictions on *steel imports* from non-VRA countries or insular possessions if the steel was melted and poured in a VRA country, in order to prevent circumvention of steel VRAs. Also authorizes USTR to take such actions as necessary to enforce "third country equity" provisions of steel VRAs.

3. Provides new procedures to *monitor imports of downstream products* to assist in identifying the diversionary impact of significant antidumping and countervailing duties on major materials or parts.

4. Clarifies procedures for Commerce to determine *critical circumstances* and amends standard by which ITC determines critical circumstances.

5. Requires any person submitting factual information in a proceeding to *certify* that such information is accurate and complete to the best of that person's knowledge. Amends procedures for *disclosure of business proprietary information* under administrative protective order in proceedings before Commerce and ITC. Requires Commerce to establish procedures for correction of ministerial errors.

6. Prohibits antidumping and countervailing duties paid on imported merchandise from being eligible for refund under *drawback* provisions. Provides that *U.S. Government purchases* of imported merchandise are not exempt from antidumping or countervailing duties, with a limited exception for certain merchandise imported by the Defense Department.

7. Requires a study of market-oriented reforms being undertaken by the People's Republic of China and their implications for applicaton of U.S. trade laws.

VIII. Intellectual Property Rights

A. Improves the effectiveness of intellectual property protection under section 337 of the Tariff Act of 1930:

1. *Eliminates* the *injury requirement* in *intellectual property rights cases.* (The domestic industry requirement is retained with an expanded definition).

2. *Shortens time period for* issuance of *temporary exclusion orders* to 90 days after initiation (extension of 60 days permitted for more complicated cases).

3. Clarifies that cease and desist orders may be issued *"in addition to or in lieu"* of exclusion orders and increases the maximum penalty for violations of such orders to $100,000 or twice the domestic value of the articles."

4. Provides for the ITC to use *default* procedures against persons who have been served with notice of proceedings and fail to appear to answer complaint in cases where petitioner seeks relief solely affecting that person. A general exclusion order may be issued by default if no respondent contests the investigation and violation is established.

5. In cases where a party previously found to be in violation petitions the ITC, the *burden of proof* that he is no longer in violation is on the *petitioner* and relief may be granted only on the basis of new evidence or on other grounds permissible under the Federal Rules of Civil Procedure.

6. Provides procedures for treating *confidential information* submitted in section 337 cases.

7. Explicitly authorizes the ITC to issue *consent orders* as the basis of settlement agreements.

8. Allows the ITC to prescribe sanctions for *abuse of discovery* and *abuse of process.*

9. Authorizes the ITC to order *seizure and forfeiture of goods* subject to an exclusion order if an attempt has been made to import the goods and the owner or importer has been notified that a further attempt to enter the goods would lead to seizure and forfeiture.

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B. Creates a mechanism (relating to piracy and market access) to *improve international intellectual property rights protection* through identification by the USTR of foreign priority countries and self-initiation of section 301 investigations. Section 301 procedures apply generally in such investigations, except that a decision by USTR on whether or not to act is required within six months of initiation, with a possible three month extension in exceptional circumstances. If the USTR determines action is warranted under section 301, requires implementation within 30 days of an affirmative determination, or four months in exceptional circumstances.

IX. Trade Agency Functions

A. *U.S. Trade Representative.*—Specifies that the USTR has primary responsibility for developing and coordinating implementation of international trade policy, international trade negotiations, and trade policy guidance, and is principal trade spokesman; the USTR must consult and be advised by the interagency trade organization. Specifies USTR functions for coordinating interagency resources to deal with unfair trade practices.

Expresses the sense of Congress that the USTR should be the senior representative on any body the President establishes dealing predominantly with international trade matters and should be a participant in all meetings where international trade is a major topic.

Specifies the agency membership of the statutory *interagency trade organization,* chaired by the USTR, to assist the President and to advise the USTR; expands the organization's responsibilities to specifically include development and implementation of U.S. trade policy objectives.

B. *U.S. International Trade Commission.*—

1. Designates the ITC as an "independent regulatory agency" for purposes of the Paperwork Reduction Action.

2. Provides that, in determining eligibility for the ITC chairmanship, all of a Commissioner's service shall be taken into account, including prior terms of service.

3. Allows the ITC not to release confidential business information to the President or the Congress in section 332 investigations without the consent of the affected party.

X. Miscellaneous Trade Law Provisions

A. *Caribbean Basin Initiative.*—

1. Sets forth findings regarding the economic and political importance of the region and expresses *intent of the Congress* to ensure a strengthening of the trade elements of the CBI and that trade law changes not unduly affect the CBI program or discriminate against CBI imports.

2. Authorizes the President to withdraw, suspend or limit duty-free treatment on particular articles under the CBI in lieu of removing country beneficiary status.

3. Adds "grandfather" provision for two Caribbean-owned ethanol facilities and extends the grandfather period to all eligible companies until December 31, 1989, at a level of 20 million gallons per plant per calendar year. Requests ITC and

GAO studies to recommend appropriate feedstock requirements.

B. Extends until October 31, 1989, the President's authority to implement U.S. obligations under the *International Coffee Agreement.*

C. Expresses the sense of the Congress that the objectives of the 1983 Joint Policy Statement on Energy Cooperation, as it relates to *U.S. exports of coal to Japan,* have not been achieved. Urges the President to direct the USTR, in negotiating a steel trade arrangement with Japan, to take into account the amount of coal that Japan purchases from the United States in determining the level of steel products that can be imported into the United States. Requires report to Congress by November 1, 1988.

D. Expresses the sense of the Congress that the Congress strongly supports current talks to increase opportunities for *U.S. automobile parts* producers to supply parts for Japanese automobiles; determines that the success of such talks will be measured in part by a significant increase in U.S. sales; and directs the Administration to report to Congress on the talks and on any agreements reached.

E. Requires one-time study of auto-producing countries' *barriers to auto imports* and the impact of such barriers, both in the presence and absence of the U.S.-Japan voluntary restraint agreements, on diverting auto imports into the U.S. markets.

F. Requires the USTR to request all relevant agencies to prepare appropriate recommendations for improving the *enforcement of restrictions on Cuban imports.*

G. Eliminates requirement for 48-hour delay in *release of trade data* based on the f.a.s. value of imports, following release of trade data based on the c.i.f. value of imports. Require *Census Bureau study* within one year on the feasibility of developing and publishing an index to measure and report the real *volume of U.S. merchandise trade* on a monthly basis.

H. Requires USTR and Treasury jointly to prepare and submit annually to the Committees on Ways and Means and Finance a comprehensive *report on specified trade and economic indicators,* with projections and conclusions.

I. Requires that monthly and cumulative reports on the U.S. *merchandise trade balance* be reported on a *constant dollar basis* (i.e., adjusted for inflation), as well as on a current dollar basis.

J. Repeals excise tax imposed on *windfall profits* on crude oil.

XI. National Security Import Relief

A. Amends section 232 of the Trade Expansion Act of 1962 to require the Secretary of Commerce to report to the President within 270 days of initiating an investigation.

B. Requires the Secretary of Commerce to consult with the Secretary of Defense regarding the methodological and policy questions raised by the investigation; and requires the Secretary of Defense, upon request of the Commerce Secretary, to provide defense requirements with respect to the article under investigation.

C. Requires the President to decide, within 90 days of receiving the Commerce Secretary's report, on whether to take action and if so to proclaim such action within 15 days.

D. Requires the President to report to Congress within 30 days on the action taken and reasons for such action.

E. Authorizes the enforcement of the quantitative restrictions negotiated with respect to machine tool imports.

XII. Telecommunications

Provides specific negotiating authority and remedies to address lack of foreign market openness in telecommunications trade.

A. Requires *USTR investigation,* within five months, *of priority foreign countries,* taking into account a number of factors for identifying such countries, including the nature and significance of the acts, policies, and practices that deny *mutually advantageous market opportunities.* USTR may add or drop countries from the priority list, taking into account the same factors used for original identification of countries.

B. Requires the *President to negotiate and to establish specific, country-by-country negotiating objectives* necessary to meet certain general objectives applicable to negotiations with all countries. After consulting with industry, labor, and Congress, the *President may modify* specific negotiating objectives in response to changed circumstances. Requires report to Congress.

C. *If no agreement is reached, requires the President to take whatever actions* authorized in the bill are appropriate and most likely to achieve the general objectives, as defined by the specific objectives established by the President for the individual country. Action must be taken within a time certain (18 months to 3½ years, depending upon a Presidential decision as to progress being made in negotiations). A broad range of possible options for action is available to the President. The President may *modify or terminate* any action taken, subject to certain considerations.

D. USTR is required to conduct *annual reviews* to determine if a country has violated a telecommunications trade agreement or otherwise denies mutually advantageous market opportunities. In the case of an affirmative determination, it shall be treated as a trade agreement violation under section 301.

E. Provides *negotiating authority* concomitant with the general trade agreement authority provided in the bill (until 1993). *Compensation authority* is granted, in the event that action taken is GATT-illegal. Defines telecommunications products, and specifies that nothing in the bill shall be construed to require action inconsistent with U.S. international obligations.

F. *Requires the FCC to submit to Congress certain data* made public relating to foreign sales of telecommunications equipment in the U.S. market. Requires the *Secretary of Commerce,* in consultation with the FCC and USTR, to conduct a *study* within one year of the competitiveness of the U.S. telecommunications industry and to submit findings and recommendations to Congress.

XIII. Tariff and Customs Provisions

Includes over 100 miscellaneous tariff and trade provisions covering duty suspensions, duty-free measures, classification changes and customs-related nontariff matters. In addition to the many provisions affecting the tariff status of particular articles, there are

provisions to repeal the existing prohibition on the importation of Soviet furskins; to implement the Nairobi Protocol of the Florence Agreement; to provide for statutory and regulatory control of duty-free sales enterprises; and to increase the penalty for intentional mismarking of the country of origin on imported goods.

TRADE AND FOREIGN POLICY

(Subconference No. 2)

I. Relations With Mexico

Endorses the recently negotiated bilateral framework agreement between the United States and Mexico on trade and investment, and urges the President to pursue consultations under the agreement to expand mutually beneficial trade and investment.

II. Silkworm Missiles

Expresses sense of the Congress that other nations should cease transfers of offensive weapons to belligerents in the Persian Gulf.

III. Fair Trade in Auto Parts

A. Directs the Commerce Secretary to establish an initiative to increase the sale in Japanese markets of auto parts and accessories made in the U.S.

B. Requires the Secretary to report annually to Congress on sales of U.S.-made auto parts to Japan.

C. Creates a Special Advisory Committee to assist the Secretary in carrying out the initiative.

EXPORT PROMOTION AND EXPORT CONTROLS

(Subconference No. 3)

I. Export Promotion

A. U.S. and Foreign Commercial Service

1. Establishes in statute the United States and Foreign Commercial Service within the International Trade Administration of the Commerce Department.
2. Authorizes the Commerce Secretary to designate 8 U.S. missions overseas at which the senior Comercial Service officer may use the diplomatic title of Minister-Counselor.
3. Requires the Commerce Secretary to report to Congress an evaluation of U.S. export services and on the possible integration of the domestic and foreign export services.

B. Commercial Service Officers and MDB Procurement

1. Directs the Commerce Secretary, in consultation with the Treasury Secretary, to appoint a US&FCS officer to serve with each U.S. Executive Director to a multilateral development bank in order to promote U.S. exports and procurement from American businesses.
2. Directs the Treasury Secretary to designate a MDB procurement officer in Treasury.

C. Market Development Cooperator Program, Trade Shows, and Other New Export Initiatives

1. Authorizes the Commerce Secretary to establish a market development cooperator to develop foreign markets for American nonagricultural exports through joint government-private sector cooperation.
2. Authorizes the Commerce Secretary to create a partnership program in which individuals from the private sector serve with Commercial Service officers overseas in market development.
3. Authorizes the Commerce Secretary to provide assistance for trade shows in the U.S., and to encourage participation in such trade shows by U.S. small businesses.
4. Authorizes a total of $6 million in FY 1988/89 for these activities.
5. In addition, directs the Commerce Secretary to create a pilot Commerical Service program to promote U.S. exports to Japan, Korea and Taiwan; and authorizes the Commerce Secretary to provide assistance for exports of authentic American Indian arts and crafts.

D. Export Promotion Data System

Establishes within the Commerce Department, as part of the National Trade Data Bank, the export promotion data system to provide U.S. exporters timely and accurate data on business opportunities overseas.

E. Export Trade Companies

Directs the Commerce Department to establish a program to encourage the formation of other export intermediaries, and requires the Commerce Secretary to report to Congress on progress in this effort.

II. Export Controls

A. Streamlines Licensing Requirements

1. Eliminates licenses for exports to COCOM (NATO + Japan, except Iceland) countries of goods which can currently be exported to the People's Republic of China without multilateral approval (PRC greenline level).
2. Requires within 3 months that COCOM countries with effective export control systems be certified to eliminate licensing requirements to such designated countries (such countries also subject to only limited mandatory U.S. sanctions for future export control violations).
3. Eliminates licenses for exports to the Free World of goods which can currently be exported to controlled countries without multilateral approval (AEN level).
4. Eliminates unilateral reexport licenses for COCOM countries, and for U.S. parts and components incorporated into foreign-made goods when U.S. content is 25 percent or less, with certain exceptions.
5. Requires annual reviews of technical performance thresholds, and provides a mechanism for exporters to petition for review of goods eligible for export under such categories.

B. Reduces the Control List

1. Decontrols low-level technology (below AEN) worldwide, except for goods which COCOM agrees to maintain notification requirements.
2. Clarifies existing embedded microprocessor provision that goods are to be controlled on the basis of overall functional characteristics and not solely on component parts, thereby easing restrictions on most medical equipment.
3. Eliminates unilateral national security controls unless negotiations are underway to achieve multilateral control, or the item is unique to the United States.
4. Directs National Academy of Sciences to conduct a follow-up study to examine the current export control system and make recommendations for regulatory and legislative reforms.

C. Provides Dispute Resolution Mechanisms and Improved Administration

1. Provides timetables for resolution of disputes on license applications and inclusion of items on the control list.
2. Clarifies that basis of DoD's review is limited to national security, not foreign policy, considerations, and requires the Secretaries of Commerce and Defense to evaluate and jointly report to Congress on DoD's review of exports to non-controlled destinations.
3. Provides limited judicial review for civil penalties and temporary denial orders.
4. Prohibits user fees for processing export license applications.
5. Permits industry advisors to the U.S. Delegation to COCOM, and provides for Commerce Department consultation with industry technical advisory committees (TACs) on list review.

D. Clarifies and Expands Foreign Availability Procedures

1. Establishes a maximum of 9 months for foreign availability determinations.
2. Provides for decontrol and expedited licensing of goods available in Western countries (West-West foreign availability).
3. Authorizes additional funds to the Department of Commerce to carry out foreign availability functions.

E. Expands Trade With the People's Republic of China

1. Authorizes the use of distribution licenses for multiple exports to the People's Republic of China.
2. Presumption of approval for licenses for U.S. exporters to display products at trade shows in the PRC, so long as the exporter retains title.

F. Strengthens Enforcement of Export Controls

1. Authorizes Secretary of Commerce to bar persons convicted of export control violations from receiving export licenses.
2. Extends the effective period for temporary denial orders to 180 days.
3. Prohibits Customs Service from detaining for more than 20 days goods which are eligible for export under a general license.

G. Authorization of Appropriations/Termination Date

1. Authorizes $46,913,000 for export administration functions for fiscal year 1989.
2. Extends the authorization date for the EAA by 1 year to September 30, 1990.

H. Permits Crude Oil Exports to Canada Under Free Trade Agreement

1. Permits exports of up to 50,000 barrels per day of Alaskan crude oil to Canada pursuant to approval of the U.S.-Canada Free Trade Agreements.
2. Requires Secretary of Commerce in consultation with Secretary of Energy to study whether existing restrictions on crude oil exports in the United States are adequate to protect U.S. national security and energy interests.

I. Controls on Export of Refined Petroleum Products From Alaska

A new refinery constructed in Alaska which refines Alaskan crude is prohibited from exporting more than 50 percent of annual output of refined petroleum products (except ethane, butane and propane), excluding sales to U.S. military bases and U.S. flag airlines. In no case may more than 70,000 barrels per day be exported.

J. Enforcement of Multilateral Export Controls

1. Retroactive Sanctions on Toshiba and Kongsberg:

Mandatory 3 year sanctions against Toshiba Machine, Kongsberg Trade, and other guilty parties: (1) prohibition on USG contracting and procurement; (2) prohibition on importation.

Mandatory 3 year sanctions against the parent corporations: (1) prohibition on USG contracting and procurement.

Limited exceptions: (national security, spare parts, component parts, routine servicing and maintenance, information and technology, and contracts signed prior to June 30, 1987).

2. Prospective Sanctions for Future Violations:

(a) *Mandatory Sanctions*

Mandatory sanctions for 2–5 years against any foreign person (including the parent, subsidiaries, successors, and affiliates) if the President determines that a COCOM violation has occurred that has had a serious adverse effect on the strategic balance of forces.

Sanctions are debarment from USG contracting and prohibition on importation.

Limited exceptions (same as above)

Sanctions on all but the guilty party may be limited by the President under specified circumstances; however, the President may not waive the USG contracting and procurement ban on the parent for at least 2 years.

In the case of countries the President determines had an effective export control system in effect at the time of the violation, sanctions shall not be applied to any but the guilty party.

The President shall initiate discussions with the guilty party and its government for compensation by the company in an amount proportionate to the increased costs to the U.S. and allied governments for R&D and procurement of new defensive systems.

The Attorney General may seek civil damages against the violator and its parent.

(b) *Discretionary Sanctions*

Similar sanctions could be applied on a discretionary basis in cases which did not have a serious adverse impact on the strategic balance of forces.

3. Other provisions:

Annual reports of the President on costs of illegal technology transfers.

Negotiating objectives for improved multilateral cooperation.

EXPORT ENHANCEMENT

(Subconference No. 4)

I. Commercial Personnel at the American Institute of Taiwan

Directs the American Institute of Taiwan to employ a number of personnel commensurate with the number of U.S. Commercial Service personnel at the U.S. mission in Seoul, South Korea.

II. Country Reports on Economic Policies and Trade Practices

Requires the Secretary of State to prepare and submit to Congress an annual report, comparable to the annual human rights report, on the economic policies and trade practices of U.S. trading partners, including their macroeconomic policies, debt status, export subsidies, intellectual property protection, and their laws and practices relating to worker rights.

III. Overseas Private Investment Corporation

Raises overall ceiling on OPIC's loan guarantee program from $750 million to $1 billion.

Raises annual minimum loan guarantee program from $150 million to $200 million.

Raises annual minimum direct investment fund from $15 million to $25 million.

Requires detailed justification for worker rights determinations on OPIC projects in the PRC.

IV. Trade and Devleopment Program

Codifies TDP's status as independent agency within International Development Cooperation Agency.

Requires an annual report to Congress on TDP's activities.

Creates an advisory board, including representatives from international engineering and construction industry associations.

Earmarks for TDP at least an additional $5 million but not more than $10 million in each of Fiscal Years 1988 and 1989, to be taken in equal amounts from AID's Private Enterprise Revolving Fund and ESF.

Authorizes an additional $10 million in FY 1988 and 1989 for education and training programs with particular emphasis on training nationals from the PRC and Taiwan; of this $10 million, 50 percent shall be made available only for programs administered by U.S. small businesses.

Transfers to TDP responsibility for the foreign assistance portion of the tied aid credits program under the Trade and Development Enhancement Act.

Authorizes the TDP Director, with concurrence of the Secretary of State, to use ESF funds for the tied aid credits program.

V. Countertrade

Establishes an interagency group on countertrade and offsets, chaired by the Commerce Secretary, to review U.S. policy on countertrade, and to monitor foreign countertrade activities.

Creates within the Commerce Department an Office of Barter to monitor information on international barter and provide assistance to enterprises seeking barter opportunities.

VI. Protection of U.S. Intellectual Property

Encourages Secretary of State to seek to strengthen intellectual property protection overseas.

Authorizes AID to provide technical assistance in intellectual property protection.

VII. Registration Fees for Munitions Controls

Directs that $100,000 in arms export control license fees be credited annually to a State Department account to automate the licensing system.

VIII. Worker Rights Report

Requires Secretary of State to report to Congress within 6 months of enactment on ways to improve and provide more detailed reporting on the status of worker rights.

IX. Japanese Imports From Developing Nations

Urges Japan to purchase more manufactured goods from developing countries.

X. Japan and Arab Boycott of Israel

Urges Japan to expand trade with Israel and urges Japanese firms to end compliance with Arab boycott of Israel.

XI. Facilitation of Jewelry Exports

Urges United States to join Convention on Control and Marking of Precious Metals in order to open foreign markets to American jewelry products.

XII. Loan Guarantees

Authorizes use of AID's Private Sector Revolving Fund to guarantee loans up to 50 percent of project or $3 million, whichever is less.

XIII. Poland

Authorizes $1 million for implementation of 1987 United States-Polish science and technology agreement.

Directs Agriculture Secretary to donate surplus feed grains for sale in Poland; proceeds to be used by nongovernment agencies for specified projects in Poland.

Authorizes up to $2 million to provide medical supplies and hospital equipment to Poland through PVO's.

Creates joint United States-Polish Commission to oversee provision of U.S. aid to Poland.

INTERNATIONAL FINANCIAL POLICY

(Subconference No. 5)

I. Exchange Rates and International Economic Policy Coordination

A. *Findings:* The Conference Agreement includes findings that the macroeconomic policies, including the exchange rate policies, of the leading industrialized countries require increased coordination; that currency values have a major role in determining the patterns of production and trade in the world economy; that the rise of the dollar in the early 1980's contributed substantially to the current U.S. trade deficit; and that a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the U.S. current account should be a major focus of national economic policy.

B. *Statement of Policy:* The Conference Agreement states it to be U.S. policy that the U.S. and the other major industrialized nations should take steps to continue the process of coordinating monetary, fiscal and structural policies initiated in the Plaza Agreement of September 1985; that the goal of the U.S. in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows; that the U.S., in close coordination with the other major industrialized countries should participate in international currency markets with the objectives of producing more orderly adjustments and, in combination with macroeconomic policy changes, assisting adjustments toward a more appropriate and sustainable balance in current accounts.

C. *International Negotiations on Exchange Rates and Economic Policies:*

1. Multilateral Negotiations: Under the Conference Agreement, the President shall seek to confer and negotiate with other countries to achieve better coordination of macroeconomic policies of the major industrialized countries; more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and to develop a program for improving mechanisms for coordination and improving the functioning of the exchange rate system.

2. Bilateral Negotiations: Under the Conference Agreement, the Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the IMF, and consider whether countries manipulate the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in interna-

tional trade. If the Secretary considers that such manipulation is occurring with respect to countries that have material global current account surpluses and significant bilateral trade surpluses with the U.S., the Secretary will initiate negotiations with such countries, in the IMF or bilaterally, to ensure that such countries regularly and promptly adjust the rate of exchange between their currencies and the U.S. dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

3. Reporting Requirements: Under the Conference Agreement, the Treasury Secretary shall submit a written report on international economic policy, including exchange rate policy, to the House and Senate Banking Committees on or before October 15 of each year, as well as a written update of developments six months after the initial report. The report will include an analysis of currency market developments and the relationship between the U.S. dollar and the currencies of our major trade competitors; an evaluation of the factors in the U.S. and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows; a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar; an assessment of the impact of the exchange rate of the U.S. dollar on: the ability of the U.S. to maintain a more appropriate and sustainable balance in its current account and merchandise trade account, the international competitive performance of U.S. industries, and the external indebtedness of the U.S.; recommendations for any changes necessary in U.S. economic policy to attain a more appropriate and sustainable balance in the current account.

II. International Debt Provisions

A. *International Debt Management Authority*:

1. Provides for the Secretary of the Treasury to study the feasibility and advisability of establishing the multilateral financial authority described in the section. Unless he determines that initiation of such discussions would carry a material risk of reducing the value of the debt, disrupting debt service, or causing defaults, the Secretary will initiate discussions with industrialized and developing countries on the establishment of the authority. The Secretary will submit interim reports on the progress being made on the study or discussions six months and twelve months after the date of enactment of the Act, as well as a final report upon the conclusion of the study or discussions.

2. The authority would undertake to purchase sovereign debt of less developed countries from private creditors at an appropriate discount and enter into negotiations with the debtor countries to restructure the debt in order to ease the debt service burden and provide opportunities for increased economic growth; any loan restructuring assistance, provided by the authority should involve commitments by the debtor country to the preparation of an economic management plan calculated to

provide sustained economic growth; and support for the authority should come particularly from industrialized countries with large current account surpluses.

B. *World Bank-IMF Review of International Debt Problem*: The U.S. executive directors to the World Bank and the IMF will request those institutions to prepare a review and analysis of the debt burden of the developing countries, including consideration of the various alternatives for dealing with the debt problem.

C. *Regulatory Provisions Affecting International Debt*:

1. Sense of the Congress resolutions on: Regulatory objectives for Federal banking agencies for banks with loans to heavily indebted developing countries; flexibility in debt restructuring; recapitalization by banks with loans to debtor countries; and appropriate levels of reserves for loan losses by banks engaged in lending to heavily indebted developing countries.

2. Data on Banks Foreign Loan Risks: Amends the International Lending Supervision Act of 1983 to require the Federal banking agencies to submit an annual report on the level of loan exposure of banking institutions to loans which are rated "value impaired", "substandard", "other transfer risk problems", or are placed in any other troubled debt categories established by the banking agencies.

3. Regulatory study: The Federal banking regulatory agencies will conduct a study of debt service obligations associated with sovereign debt of developing countries.

D. *Study of Limited Purpose Special Drawing Rights for the Poorest Heavily Indebted Countries*: The Secretary of the Treasury, in consultation with the directors and staff of the IMF, will conduct a study of the feasibility of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the IMF of limited purpose Special Drawing Rights to such countries.

III. Multilateral Development Bank Procurement

The Conference Agreement requires that a member of the U.S. and Foreign Commercial Service or a representative of the International Trade Administration be appointed by the Secretary of Commerce to serve as a liaison with each multilateral development bank. Each liaison shall work to increase the ability of U.S. firms to do business with each multilateral development bank.

IV. Export-Import Bank and the Tied Aid Credit Fund

A. *Tied Aid Credit Fund*:

1. The Conference Agreement reauthorizes the Tied Aid Credit Fund, also known as the "war chest", for one year. The Tied Aid Credit Fund was first Authorized in 1986 and is intended to provide U.S. exporters with the tools necessary to compete against predatory financing by foreign countries.

2. The Conference Agreement would also require the Chairman of the Export-Import Bank to work with international organizations to prepare a report on the tied aid credit practices in other countries.

B. *Comparative Injury Determinations*: The Conference Agreement requires the Export-Import Bank to be concerned about extending loans or guarantees for production of certain commodities when the product is first to be sold on the world market if it causes harm to U.S. producers. The Conference Agreement defines substantial injury if the loan guarantee for the production of a certain commodity will expand production in excess of 1 percent of the U.S. production of that commodity.

V. Export Trading Company Act Amendment

A. *Standard For Determination as an Export Trading Company:*

1. The Conference Agreement requires that an export trading company must obtain more revenue from exporting or facilitating the export of U.S.-produced goods or services than it receives from importing goods or services into this country.

2. The Conference Agreement further stipulates that an export trading company must obtain at least one-third of its total revenue from exporting or facilitating the export of U.S. goods or services which are produced by persons who are not affiliated with the bank holding company that controls the export trading company.

B. *Period For Determining Status As An Export Trading Company:*

1. The Conference Agreement provides a two year "start up" period during which an export trading company does not have to meet the revenue test described in item A above.

2. The Conference Agreement also provides that the above mentioned determination period shall be for a time period of not less than four years and shall not begin until two years after the initial operations of an an export trading company.

C. *Leveraging Ratio:* the Conference Agreement prohibits the Federal Reserve from disapproving an export trading company's application solely because the leveraging ratio exceeds 20:1.

D. *Inventory:* the Conference Agreement prohibits the Federal Reserve from implementing general regulations placing an across the board dollar amount limitation on the size of inventories held by export trading companies. The Federal Reserve may limit the size of an inventory of specific export trading companies if the Board finds that the size of the inventory threatens the safety and soundness of a bank.

VI. Primary Dealers in United States Government Securities

The Conference Agreement prohibits the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York from designating or permitting the continued designation of a foreign entity to be a primary dealer in U.S. government securities unless the home nation of that entity accords U.S. firms national treatment in dealing in that country's government securities. This provision takes effect 1 year after date of enactment. Exempt from the provisions of this section are primary dealers which were purchased by foreign persons prior to July 31, 1987 or which notified the Federal Reserve Bank of New York prior to July 31, 1987 that a foreign person intended to purchase such primary dealer.

VII. Financial Services Studies

A. *Reports on Foreign Treatment of U.S. Financial Service Institutions:* The Conference Agreement provides that the Secretary of the Treasury, in conjunction with the Secretary of State, the Federal Reserve, the Comptroller of the Currency, the FDIC, the SEC, and the Department of Commerce shall report to the Congress not less than once every four years on the foreign countries from which foreign financial services institutions have entered the U.S. financial services market, the kinds of financial services which are being offered, the extent to which foreign countries deny national treatment to U.S. banks and securities companies, and the efforts undertaken by the U.S. to eliminate such discrimination.

B. *Banks Loan Loss Reserves:* Directs the Federal Reserve Board to submit a report to Congress by March 31, 1989 on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes.

VIII. International Discussions on Fair Trade in Financial Services

The Conference Agreement provides that the President shall conduct discussions with the governments of countries that are major financial centers aimed at ensuring that U.S. banking organizations and securities companies have access to foreign markets and receive national treatment in those markets. After completing the discussions, the President will transmit to the Congress any recommendations that have emerged from those discussions.

AGRICULTURAL TRADE

(Subconference No. 6)

I. Agricultural Trade Policy

The Conference agreement will provide that it is the policy of the United States to provide agricultural commodities for export at competitive prices; to support the principle of free and fair trade in agricultural commodities; to support the negotiating objectives set forth in the Conference agreement; and to seek the elimination of barriers to agricultural trade.

II. Long-Term Agricultural Trade Strategy Reports

The Conference agreement will require the Secretary of Agriculture to prepare annual long-term agricultural trade strategy reports establishing policy goals for United States agricultural trade and exports. The reports must set forth recommended levels of spending on international activities of the Department of Agriculture for 1, 5, and 10 year periods.

III. Triggered Marketing Loan

The Conference agreement will require the President to submit a certification to Congress no later than 45 days after January 1, 1990, as to whether there has been significant progress toward achieving an agreement with respect to agricultural trade under the General Agreement on Tariffs and Trade (GATT). If the President cannot certify that there has been significant progress toward reaching an agreement, the President must instruct the Secretary of Agriculture to implement a marketing loan program for the 1990 crops of wheat, feed grains and soybeans unless the President determines that the implementation of a marketing loan would harm further negotiations. If the President so determines, an expanded Export Enhancement Program must be implemented unless the implementation of such a program would be a substantial impediment to achieving an agreement under the GATT. The President is authorized to stop the implementation of either of these programs at any time if they have their intended effect, namely, they spur the GATT negotiations and the President determines that continued implementation would harm further negotiations.

IV. Export Enhancement Program

The Conference agreement will extend the authorization for the export enhancement program (EEP) through 1990 and increase the ceiling on the value of commodities that can be used under that program from $1.5 billion to $2.5 billion. The Conference agree-

ment also provides that in carrying out the program, the Secretary of Agriculture may consider for participation all interested United States exporters, processors, users, and foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products.

V. Targeted Export Assistance Program

The Conference agreement will authorize an increase in the level of funding for the Targeted Export Assistance Program (TEA) for 1988 from $110,000,000 to $215,000,000. This increase is subject to appropriations. The TEA program is also amended to provide discretionary authority to the Secretary of Agriculture to provide compensation for expenses incurred by trade associations in defending countervailing duty actions instituted after January 1, 1986, in foreign countries.

VI. Dairy Export Incentive Program

The Conference agreement will require that payments in commodities under the Dairy Export Incentive Program be made in the form of generic commodity certificates. Further, if the generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that the dairy products are sold for export and that the sales do not disreplace usual United States export sales of dairy products.

VII. Agricultural Trade With Countries With Large Trade Surpluses

The Conference agreement will provide that if a country has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State, may develop an appropriate plan under which that country may purchase United States agricultural commodities for use in development activities in developing countries.

VIII. Foreign Agricultural Service

The Conference agreement will strengthen the Foreign Agricultural Service (FAS) of the Department of Agriculture by providing for an overall increase in authorized appropriations for fiscal years 1988 through 1990 of $20,000,000. The increase is to be used for general market development activities, including market development efforts in developing countries, and to increase in number and quality of international trade shows. The Conference agreement will also provide for a minimum level of FAS personnel of 900 and would call for the designation of senior FAS officers as Minister-Counsellors.

IX. Reciprocal Meat Inspection

The Conference agreement will provide that if the Secretary of Agriculture determines that a foreign country applies meat inspection standards that are not based on scientific standards, the Secretary must consult with the United States Trade Representative and they must make a recommendation to the President as to what

action should be taken. The President may require that a meat article produced in the foreign country not be permitted entry into the United States unless it is determined that the meat article has met the standards applicable to meat articles in commerce within the United States.

X. Trade With Japan

The Conference agreement will provide that it is the sense of Congress that the import barriers imposed by Japan on agricultural products, including rice, citrus, and beef should be removed. The provision draws an analogy between those import barriers and the barriers recently determined by a GATT panel to be inconsistent with the GATT.

XI. Trade With Korea

The Conference agreement will provide that it is the sense of Congress that Korea should permit greater access to its markets by United States beef producers. Further, the United States Trade Representative should aggressively pursue negotiations to gain greater access to the Korean market for United States beef and should try to achieve a reduction in beef import tariffs imposed by Korea.

XII. Wood and Wood Products

The Conference agreement will make wood and wood products fully eligible for use in Public Law 480 market development projects and in the short and intermediate term export credit guarantee programs. The substitute will also establish a cooperative national forest products marketing program that is designed to improve the competitiveness of the United States forest products industry.

XIII. Marketing Orders

The Conference agreement will provide for an additional period during which marketing order requirements could be in effect if the Secretary of Agriculture determines it is necessary to prevent circumvention of a marketing order by imports. The necessity for such additional period must be reviewed, on request, every 3 years. The additional period can be no longer than 35 days and the Secretary must take certain issues into consideration when deciding whether to establish the additional period.

XV. Imported Meat and Poultry Products

The Conference agreement will require the Secretary of Agriculture, within 90 days after enactment of the Act, to submit a report to Congress specifying the planned distribution of resources of the Department of Agriculture for sampling imports of meat, poultry, and egg products to ensure compliance with the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act governing permitted levels of pesticide, drugs, and other residues in such products. The report must also respond to a 1987 Inspector General audit report.

XVI. Other Provisions

The Conference agreement also contains a provision concerning the export credit guarantee program. The Conference agreement also calls for studies to be conducted concerning egg imports, rose imports, the Canadian wheat import licensing scheme, the use of intermediate export credit, dairy imports, sugar imports, and honey imports.

INVESTMENT, COMPETITIVENESS AND FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

(Subconference No. 7)

I. Amendments to the Foreign Corrupt Practices Act

A. The FCPA was enacted in 1977 in response to disclosures of questionable and in some cases illegal foreign payments made by U.S. companies to foreign officials in order to secure export business. The 1977 Act attempted to stop corporate bribery through three basic means: (1) requiring U.S. firms to keep detailed books, records, and accounts to accurately reflect corporate payments and transactions; (2) requiring U.S. firms to institute and maintain an internal accounting system to assure management's control over the firm's assets; and (3) making it a crime to bribe foreign officials to obtain or maintain business. The evidence suggests that the FCPA has been effective. Almost from its enactment, however, certain of its provisions have been criticized for vagueness and for creating unnecessary paperwork burdens and concerns among exporters over their liabilities for unauthorized acts of their agents.

B. In order to clarify its provisions and to alleviate unnecessary paperwork and needless concerns about criminal liability, the conferees agreed to amend present law to:

1. Limit criminal liability for violations of accounting standards to those who "knowingly circumvent" a system of internal accounting controls or "knowingly falsify" records kept pursuant to accounting requirements.

2. Define the "reasonable detail" in which companies must keep books, records, and accounts, and the "reasonable assurances" of management control over corporate assets as being "such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs."

3. Define the responsibilities of an issuer for the accounting practices of a domestic or foreign subsidiary. An issuer's responsibility for a subsidiary's compliance with the accounting requirements (when an issuer holds 50 percent or less of the subsidiary's voting power) is discharged if the issuer proceeds in good faith to use its influence to cause its subsidiary to comply with the requirements.

4. Change the current law, which applies criminal and civil liability to firms and individuals who make payments to third parties "knowing or having a reason to know" that the payments would be used by that third party for purposes barred under the statute. Conferees agreed to limit liability to "knowing" violations with a definition of knowing from the House Judiciary Committee passed revisions to the U.S. Criminal Code in the 96th Congress. Conferees also agreed to develop

report language further clarifying the scope of the agreed statutory language definition of "knowing."

5. Include within prohibited payments those made to a foreign official to induce him to do any act in violation of the lawful duty of such officials. This conforms the foreign bribery standard to the domestic bribery standard found at 18 USC 201.

6. Clarifies that payments made to procure the performance of certain routine governmental actions by foreign officials such as processing governmental papers, or loading and unloading cargoes, and similar actions are not covered by the FCPA's prohibition on bribery.

7. Makes it an affirmative defense to the prohibition on bribery that a payment to a foreign official is lawful under the written laws and regulations of the foreign official's country. Conferees agreed to develop report language to further clarify the scope of their statutory language agreement on this item.

8. Gives companies an affirmative defense to the prohibition on bribery for payments that constitute reasonable and bona fide expenditures that are directly related to promoting products or performing contracts.

9. Provides increased penalties for criminal and civil violations of the FCPA.

10. Establishes a procedure under which the Attorney General may issue general guidelines regarding activities that would or would not conform with the Justice Department's enforcement policy regarding FCPA violations.

11. Charges the Executive Branch to pursue an international agreement with OECD countries to ban foreign bribery.

12. Repeals the Eckhardt amendment of the FCPA, thus allowing employees and agents to be prosecuted for FCPA violations even if the firm for which they work has not been found guilty of violating the Act.

13. Provides new civil subpoena authority to the Justice Department to enhance enforcement of the FCPA.

II. Presidential Authority With Regard to Reviewing Certain Mergers, Acquisitions, and Takeovers—the "Exon/Florio" Provision

A. The proposed purchase earlier this year of an 80 percent share of Fairchild Semiconductor Corporation by Fujitsu, Ltd. sparked Congressional interest concerning takeovers of American firms by foreign companies which raise national security considerations. Because of concerns that the Federal Government lacked the specific authority to prevent such acquisitions, the conferees agreed to legislation to give the President such authority.

B. Title VII of the Defense Production Act of 1950 (50 USC app. 2158 et seq.) is amended by adding provisions that give the President the authority, if he first makes certain findings, to take actions to suspend or prohibit any acquisition, merger, or takeover of a person engaged in interstate commerce in the United States by or with foreign persons so that such control will not threaten to impair the national security.

1. To activate this authority, the President would have to find that there is credible evidence that leads him to believe the foreign interest exercising control might take action to impair the national security and that other laws do not provide adequate authority to protect the national security in the matter.

2. The President would have to report his findings to the Congress with a detailed explanation.

3. In making any decision to exercise his authority under this provision the President may consider factors such as: (a) domestic production needed for projected national defense requirements; (b) the capability and capacity of domestic industries to meet national defense requirements; and (c) the control of domestic industries and commercial activities by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

III. Registration of Foreign Investment (the "Bryant Amendment")

At the time of publication, the conferees had not reached agreement on this provision.

EDUCATION AND LABOR

(Subconference No. 8)

PART A—EDUCATION

I. Literacy Assistance

A. *Worksite Literacy Programs: $30 million.*—New $30 million authorization in FY 88 for demonstration matching grants to educational partnerships for workplace basic skills programs. (This and several other provisions are crosswalked to H.R. 5 for authorization through 1993.)

B. *English Family Literacy Grants: $25 million.*—$25 million discretionary grants to serve adults who are limited-English proficient.

C. *Literacy Corps Assistance: $10 million.*—Authorizes $10 million for each of 2 years for grants to institutions of higher education to establish literacy corps programs which offer students credit for voluntary literacy tutoring.

II. Education for Economic Security Act

A. *Reauthorization of Title II of the Education for Economic Security Act at $175 million for FY 88.*—This Act provides grants to local educational agencies (LEAs) and state educational agencies (SEAs) to upgrade instruction in math, science, foreign language and computer instruction.

B. *Reauthorization of Title III at $20 million; additional Title III partnership program for elementary and secondary schools only.*

III. Foreign Language Assistance to Elementary and Secondary Schools: $20 Million

A. $20 million authorization for matching grants to SEAs on a per capita basis to assist LEAs in developing, improving, and implementing model programs in foreign langauge instruction in elementary and secondary schools.

B. *Presidential Award for Language Instruction: $1 million*—Presidential awards to one elementary and one secondary teacher in each State, the District of Columbia, and Puerto Rico for excellence in foreign language instruction.

IV. Partnerships For Excellence: $10 Million

Authorizes $10 million demonstration program for partnerships among LEAs, SEAs, higher education institutions, private sector, CBO's, chambers of commerce and federal agencies to improve and enhance education. Up to 25 percent of the funds may be used for programs for the gifted and talented.

V. Technology

A. *Star Schools: $37.5 million for FY 1988.*—Adds Star Schools program to the Education for Economic Security Act as a new title. Provides grants to partnerships to establish telecommunications networks which provide and enhance math, science, and foreign language instruction.

B. *Training Technology Centers: $15 Million.*—Authorizes $15 million for regional technology transfer centers, $3 million of which will be reserved for the Technology Transfer Training Act, to facilitate the transfer of training technology from Federal agencies to the private sector, state and local governments, and educational institutions. Such transfer capability would improve training programs for workers, and students in schools, the private sector, and the military. Program would be housed in Department of Education.

C. *Technology Education: $2 million.*—$2 million in demonstration grants to vocational training centers and community colleges for modular training in basic skills, with purpose of rendering participants technologically literate.

D. *Technology Literacy: $2 million.*—New $2 million authorization for FY 88 for demonstration programs for innovative programs in technology literacy in secondary schools: communications, construction, manufacturing, etc.

VI. Access Demonstration Program: $5 Million

$5 million in discretionary grants to establish rural education assistance centers. Grants may be awarded to regional labs, IHE's, SEA's or consortia thereof.

VII. Vocational Education

A. Reduces authorization for Part C of Title III of the Vocational Education Act (Adult Training, Retraining and Employment Development) from $35 million to $25 million, and creates new $25 million authorization under Part C for adult retraining for current workforce.

B. Increases from $20 to $30 million authorization for Part E of Title III (Industry-Education Partnerships for Training in High Technology Occupations).

Funds under A and B would provide training, retraining and employment services in high technology occupations for workers who are adversely affected by foreign competition. Includes a special provision for workers over 55.

VIII. Secondary School Programs: $250 Million

A. *Compensatory Education (Part B).*—New $200 million authorization in FY 1988 for Secretary's demonstration grants for basic skills for secondary students.

B. *School Dropout Demonstration Grant Program.*—New $50 million in FY 1988 for demonstration grants to LEAs, partnerships and CBO's for programs that prevent students from dropping out and that encourage those who have left school to reenter and finish.

IX. Higher Education

A. *International Education and Business Joint Degrees: $5 million.*—Authorizes an additional $5 million under Part B, Title VI of HEA (International Education) to provide assistance for graduate programs which offer joint degrees or coordinate degrees in business and international studies.

B. *Progarms to Promote Studies in Fields of National Need.*—Provides an additional $21.5 million to encourage increased participation in science, engineering and mathematics. Special programs for graduate studies and minority students.

C. *Facilities and Instrumentation.*—Provides $85 million for upgrading of the nation's university and college research facilities.

D. *Materials Assistance.*—Authorizes $1 million annually to provide assistance in acquiring and processing foreign technical and scientific periodicals. Provides $2.5 million to enable college libraries to better carry out the initiatives funded under the trade bill.

PART B—LABOR

I. Authorization of Appropriations

Beginning October 1, 1988, authorizes an annual appropriation of $980 million and such sums as may be necessary thereafter.

II. Eligibility

Same as current Title III of Job Training Partnership Act (JTPA).

III. Allocation of Funds

A. 80 percent of the funds are allocated to the States according to the existing Title III formula. However, as soon as data are available, the Secretary is required to allocate 25 percent of the funds to the States on the basis of plant closings and permanent layoffs and farmers and rancher dislocation. 50 percent of the substate funds must be spent on retraining activities although that requirement may be waived by the Governor to 30 percent if requested and justified by the substate grantee.

B. 20 percent is reserved for the Secretary. However, for fiscal year 1989 through 1991, not less than 10 percent of such funds shall be expended on two of the four demonstration projects listed in the bill.

IV. Carryover Limitation and Reallcation Authority

Allows no more than 20 percent of the funds allocated to the States to remain available for obligation and expenditure during the next program year. A State which has expended at least 80 percent of its allotment in the previous year and which has an unemployment rate which exceeds the national average for the 12 preceding months may be eligible to receive reallocated funds.

V. Designation of Substate Areas

Requires the automatic designation of any JTPA service delivery area (SDA) with a population of 200,000 or more as a substate area for this Title. The bill also permits two or more contiguous SDAs with an aggregate population of 200,000 or more which so request to be designated as a single substate area. Designations may not be revised more than once every two years and no JTPA service delivery area shall be divided among two or more substate areas under this Title.

VI. Designation of Substate Grantees

Substate grantees shall be designated in accordance with an agreement among the Governor, the local elected officials and the private industry councils. In the event that agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

VII. Percentage of Funds Reserved for the Governor

The bill allows the Governors to retain 40 percent of the State's allocation or statewide readjustment activities. However, the Governor may retain an additional 10 percent of the State's allocation, which must be distributed to one or more substate areas based on need within the first 9 months of the program year.

The Governor must distribute the remainder of the State's allocation to the substate areas. The allocation is based on a formula prescribed by the Governor. The formula must contain the following six factors: insured unemployment data; unemployment concentrations, plant closing and mass layoff data; declining industries data; farmer-rancher economic hardship data, and long-term unemployment data. (The Governor is not precluded from including additional factors in the formula.)

VIII. Rapid Response Assistance

The State will designate or create an identifiable state dislocated workers unit or office with capability to respond rapidly to permanent closures and substantial layoffs throughout the State. The dislocated worker units shall establish on-site contact with employer and employee representatives within a short period of time after such closures or layoffs (preferably 48 hours or less).

IX. Displaced Homemakers

If it can be established in the State plan that services can be provided, without adversely affecting the dislocated workers described in Section 301(1)(A)–(D), additional dislocated workers may be served as if they were eligible dislocated workers for programs and activities provided under this Title. Additional dislocated workers are defined as the term "displaced homemaker" is defined in Section 4 of JTPA.

X. Composition of the State Job Training Coordinating Council

The bill reconstitutes the existing SJTCC in the following manner:

30 percent business and industry;

30 percent appropriate State agencies, local governments, and local education agencies;

30 percent organized labor and community-based organizations;

10 percent general public.

XI. Limitation on Needs-Related Payments and Supportive Services

Not more than 25 percent of the funds expended under this Title may be used for these purposes.

XII. Advance Notice Provisions

A. Requires 60 days advance notice of—

1. A plant closing that results in employment loss of at least 50 employees at a site of employment,

2. A layoff of more than 6 months that results in employment loss for 50 or more employees if 33 percent of the workforce at a site of employment are affected, or that results in an employment loss for 500 employees, whether or not 33 percent of the workforce is affected.

B. No employer with fewer than 100 full-time employees is covered.

C. Only employees working at least 20 hours a week who have worked for the employer for at least six months are included in calculating the number of employees who have experienced a job loss.

D. Employees are not considered to have experienced a job loss if they have: been offered transfers within a reasonable commuting distance of their current job; accepted transfers to any of the employer's facilities; or been rehired by a purchaser of the business.

E. Exceptions to the notice requirement are provided for unforeseeable business circumstances, faltering companies, and closure or layoffs from temporary projects or undertakings where the employees knew their work was temporary.

F. Remedies for violation of the notice requirement are limited to those specified in the statute:

1. The employer is liable to employees who should have, but did not receive, notice; damages are equivalent to a day's pay and the cost of related fringe benefits for up to the 60 days that the notice should have been but was not given.

2. The employer is liable to the local community for up to $500/day for each day of the 60 day period that notice was not given, to a maximum of $30,000; the employer is relieved of this liability to the community if it satisfies its liability to the employees expeditiously.

TECHNOLOGY

(Subconference No. 9)

I. National Institute of Standards and Technology

A. Changes the name of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST). The new name is intended to reflect not only the enhanced role and responsibility assigned to NBS but also to stress NBS's traditional function of providing the measurements, calibrations and quality assurance standards which are vital to U.S. commerce.

B. Modernizes and expands the functions of NIST. NIST is specifically required to carry out every function now assigned to NBS, including all of its functions as the Nation's national standards and measurement laboratory. The rewording of the statute significantly expands the role of NIST as the government's lead laboratory in support of U.S. industrial quality and competitiveness while retaining and encouraging growth and modernization of the core metrology mission.

C. Removes reponsibilities of the National Telecommunications and Information Administration (NTIA) from the NBS Organic Act. Traditionally, the NBS Organic Act has served as the statutory authority for the Department's telecommunications research. Restating NTIA's authorities separately provides NTIA permanent and unambigous legal authority to carry out its mission. The inclusion of the telecommunications language in the new statement of mission for NIST does not transfer the work from NTIA to NIST or vice versa, but rather describes those activities that have traditionally have been performed by NIST.

D. Modifies Section 5 of the NBS Act to specify the appointment process for the NIST Director as well as the responsibilities and the requirements of that office. In order to assure a smooth transition, the current NBS Director is designated as the NIST Director until the NIST Director is installed in office. This section makes clear that NIST, like NBS before it, is to run as a discrete entity with general supervisory powers in the NIST Director.

E. Requires an organization plan for NIST to be submitted to its Congressional authorizing committees at least 60 days before the plan's effective date and not later than 120 days after enactment of this legislation. The organization plan is to establish the major operating units of NIST and to distribute the activities and functions listed in the new section 2(c) of the NBS Act accordingly. The NIST Director may revise the organization plan after a formal 60-day notification of Congress. The Center for Fire Research and the Center for Building Technology must continue in their current forms under this plan.

F. Repeals archaic language or provisions of the original NBS Act that no longer apply.

G. Requires the NIST Director to keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all activities of NIST and requires the NIST Director to justify to the Congress in advance and in writing all changes in policies regarding fees for NIST services to industry.

II. Technology Extension Activities and Clearinghouse on State and Local Initiatives

A. *Regional Centers for the Transfer of Manufacturing Technology (Regional Centers).*—

1. Authorizes $5.0 million which should permit the start of two to three Regional Centers during FY 1988 and $40 million total during FY 1989 and FY 1990 for expansion of the program. Regional Centers are to provide outlets for the demonstration of technology developed by NIST to small and medium-sized firms, beginning with the technology developed at the Automated Manufacturing Research Facility of NIST. Regional Centers are eligible for federal financing for a maximum of 6 years with an initial federal contribution of up to 50 percent which will be phased down beginning in the 4th year.

2. The Secretary of Commerce is required to publish for comment, in the Federal Register, in advance of the establishment of any Regional Centers under this section, a detailed description of plans for administering the Regional Center program. The description is to include criteria and procedures for selecting Regional Center applicants, the role these Regional Centers are to play in promoting the use of improved manufacturing techniques by American small- and medium-sized businesses, projected schedules for reduction of direct financial support of the Regional Centers by the NIST, and preliminary criteria for evaluation of the effectiveness of Regional Centers.

Potential grantees are limited to U.S. based, non-profit institutions, and the companies they assist to U.S. based, small- and medium-sized manufacturers who intend to apply the technology at facilities in the United States. Merit review of applications by qualified individuals outside the Department of Commerce is required as part of the process.

B. *Technology Extension Services.*—

1. Authorizes the NIST to provide technical assistance to state technology extension programs.

2. Requires the Secretary of Commerce to conduct a nationwide survey of current state technology extension programs to determine their expenses, structure, services and needs.

3. Authorizes $2 million a year for FY 1989, 1990, and 1991 for cooperative agreements between NIST and state technology extension programs.

C. *Non-Energy Inventions Program.*—Establishes within the Institute a Non-Energy Inventions Program to complement but not replace the existing Energy-Related Inventions Program. The NIST

Director is required to submit, along with the initial organization plan for the Institute, an initial implementation plan including specific cost estimates, implementation schedules, and proposed mechanisms to help finance the development of technologies deemed to have potential. The NIST Director is required to consult with appropriate federal agencies, State and local governments, universities, and private sector organizations and to set up cooperative arrangements, as appropriate, for various phases of the Inventions Program including both the referral of inventors to the program and aid to those inventors deemed to have concepts with commercial potential.

D. *Clearinghouse for State and Local Initiatives.*—Provides for a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation within the Office of Productivity, Technology, and Innovation (OPTI) that concentrates on collection and dissemination of information on state and local initiatives related to promotion of technological innovation. The Clearinghouse may collect and disseminate information on federal, state, and local initiatives, and is authorized to develop methodologies which state and local governments can use to evaluate their own programs. The Clearinghouse may provide technical assistance and advice to such governments with respect to such initiatives.

III. Advanced Technology Initiatives

A. *Advanced Technology Program (ATP).*—

1. Establishes an Advanced Technology Program (ATP) under the NIST Director to serve as a focal point for cooperation between the public and private sectors in the development of industrial technology and to encourage business to use the research, research techniques and know-how developed in the program of NIST.

2. Establishes ATP's main purpose as aiding in the solving of generic problems of concern to large segments of an industry rather than promotion of individual companies. The ATP is to encourage American companies to form joint research and development ventures as defined by the National Cooperative Research Act of 1984, provided that such joint ventures are not under the effective control of a single company.

3. Permits ATP to participate in industrial joint R&D ventures and to contribute limited start-up funding if appropriate, and a minority share of the ongoing costs of projects of these consortia for a period of up to five years. Principles and conditions governing the awarding of financial assistance by the ATP shall be set out in the Federal Register. Awards shall be made only after completion of a merit review of the quality of the successful proposals.

B. *Visiting Committee on Advanced Technology (VCAT).*—Replaces the present NBS Visiting Committee with a Visiting Committee on Advanced Technology (VCAT), with majority representation from U.S. industry, as the statutory advisory committee for NIST. VCAT is not intended to be a policy board which orders the NIST Director to adopt specific policies; rather it is expected to pro-

vide the best available advice for the NIST Director to use in making agency decisions.

C. *National Academies of Sciences and Engineering Study of Government-Industry Cooperation in Civilian Technology.*—Specifies that the NIST Director may contract periodically with the Academies to receive advice and studies on the nation's significant national needs and opportunities in manufacturing and emerging technologies. The bill specifies the responsibilities of this review panel of the Academies.

IV. Technology Reviews

A. Requires the President, when submitting the fiscal year 1990 budget to Congress also to submit a report on administration policy and proposals in semiconductors, semiconductor manufacturing, fiber optics, and superconductors, since federal research efforts are generally dispersed throughout a wide range of agencies, and budget information is often difficult to obtain.

B. Creates the National Advisory Committee on Semiconductors (NACOS) with the responsibility for devising a national semiconductor strategy to assure continued U.S. leadership in semiconductor technology. Annual reports are required to be submitted to the President and the Congress on the NACOS's activities. NACOS shall cooperate with any other committee or commission established by law which has overlapping responsibilities.

C. Requires the President to appoint a National Commission on Superconductivity (National Commission) to review major policy issues regarding U.S. applications of recent research advances in superconductors to assist Congress in devising a national strategy in superconductivity technologies. Bill specifies the make-up and responsibilities of National Commission members. The National Commission is to terminate one year after establishment with all residual functions vesting in the National Critical Materials Council.

V. Authorization of Appropriations

A. Establishes $144,783,000 for fiscal year 1988 as the base authorization level for the traditional activities to be carried out by NIST. These are: Measurement Research and Technology, $41,939,000; Engineering Measurements and Manufacturing, $40,287,000; Materials Science and Engineering, $23,521,000; Computer Science and Technology, $7,941,000; Research Support Activities, $19,595,000; Cold Neutron Source Facility, $6,500,000 (for a total authorization of $13,000,000), and $5,000,000 was authorized for the new programs of the National Institutes.

B. Authorizes $2,400,000 for OPTI, $500,000 for the patent licensing activities of NTIS, and $500,000 for the Japanese Technical Literature Program. The Clearinghouse for State and Local Initiatives is authorized appropriations of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990.

VI. Miscellaneous Technology and Commerce Provisions

A. Enables the patent licensing program of the National Technical Information Service to receive promptly, from the agencies contracting with it, the revenues it needs to continue its traditional programs of providing worldwide patent licensing services to other government agencies.

B. Restates the Federal Laboratory Consortium for Technology Transfer's funding formula to ensure that the $900,000 to $1,000,000 per year the Congress originally intended for the FLC's responsibilities under the 1986 Act is available. The portion of an agency's R&D budget that must go to the FLC is increased from .005 percent to .008 percent.

C. Bars NIST from charging fees to research associates in the absence of express statutory authority to do so.

D. Requires the Institute to submit a plan to the authorizing Committees in the House and Senate detailing how the Institute will make small businesses more aware of NIST activities in order to increase their participation in NIST research.

E. Forbids contracting out of activities or functions of the National Technical Information Service (NTIS), not performed by contractors on September 30, 1988, without specific statutory authority. The only exception permits NTIS to let small contracts not in excess of $250,000 per year to supplement the activities of the NTIS government employees. NTIS is required to maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.

F. Requires each federal agency to use the metric system in procurements, grants, and other business-related activities by the end of fiscal year 1992 to the maximum extent feasible. Each agency is expected to establish guidelines similar to Department of Defense (DOD) Directive Number 4120.18, dated September 16, 1987 as soon as possible following the date of enactment. Conversion to metric is not required when its use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Agencies are to assist domestic federal contractors and subcontractors, including small business, in developing the capability to compete in metric units so that increased use of metric by federal agencies does not become a windfall for companies from foreign countries which have already converted.

VII. Symmetrical Access to Foreign Research and Development

The Conference Agreement establishes a process to monitor international science and technology agreements. The section provides a mechanism to ensure that these agreements provide Americans the same access to research and development opportunities and facilities abroad as foreigners have here.

The Conference Agreement amends Title V of P.L. 95-426 (The Foreign Relations Authorization Act) to state that federally supported international science and technology agreements should be negotiated to assure proper protection of intellectual property rights and equitable and reciprocal access to international scientific and technological opportunities, facilities, and information. In

addition, the provision directs the President to include in the annual report mandated by Title V information on American access to public and publicly supported private research and development opportunities and facilities in each country which is a major trading partner of the U.S.

The Conference Agreement also requires the Secretary of State to consult with federal agencies having primary responsibility for, or a substantial interest in, the subject matter of potential science or science and technology agreements between the United States and foreign countries in advance of negotiations leading to such agreements. While the Secretary of State is assigned primary responsibility for coordination and oversight of such agreements, the consulted agencies will use their expertise in technology management, national security, and trade policy to ensure that the Secretary of State crafts effective final agreements.

VIII. National Critical Materials Council

A. Requires the Council to submit a National Federal Program for Advanced Materials Research and Development not later than 180 days after enactment of this law.

B. Requires the Executive Director to increase the number of current employees by five full-time employees, of which at least four shall be permanent, professional employees with expertise relevant to the responsibilities of the Council.

C. Authorizes the Council to use services or personnel of other federal agencies on a non-reimbursable basis.

D. Extends the authorization of the National Critical Materials Act programs to FY 1992 of appropriations in the amount of "such sums as are necessary".

GOVERNMENT PROCUREMENT

(Subconference No. 10)

I. Identification of Countries

The Conference Agreement requires the President to identify, in an annual report, countries that engage in discriminatory government procurement practices against U.S. firms. The President will use a strict set of criteria to make his judgement. A country will be identified as discriminatory only if it has violated the GATT Agreement on Government Procurement or otherwise has systematically and persistently closed Americans out of its government procurement markets in a manner that has caused identifiable harm to U.S. businesses.

II. Monitoring

Discrimination in the procurement of both goods and services are monitored. In this way, the provision will provide for a consistent U.S. policy response to incidents such as the discrimination experienced by Americans in the awarding of contracts for the Kansai Airport project in Japan.

III. Consultation and Dispute Settlement

All countries named by the President as discriminatory are granted an informal consultation period in which they can work with the United States to eliminate their discriminatory procurement practices. Signatories of the Agreement are allowed a further year in which they can argue their case through GATT's formal dispute settlement procedure.

IV. Procurement Ban

If the period set aside for consultation (for countries that have *not* signed the Agreement) or consultation *and* formal dispute settlement procedures (for those countries that *have* signed the Agreement) does not result in the foreign country removing its discriminatory practices, then a ban on U.S. government procurement of that country's goods and services goes into effect. The ban will not apply to U.S. government purchases overseas for use in foreign countries.

V. Modification

The President is given discretion to modify the ban. In lieu of the ban, the President can impose a sanction equivalent in effect to the discriminatory practice of the foreign country; one example of this sort of sanction is the recent banning of Japanese firms from the

U.S. public works market in response to Japan's discrimination against U.S. firms in public works contracting. The President can also eliminate, in whole or in part, the sanction in response to actions taken by the foreign government to eliminate its discriminatory practices.

VI. Waiver

In addition to modifying a ban, the President (or head of a Federal agency) can waive the required sanction for a contract or class of contracts (1) if he determines that to do so would be in the public interest, (2) to avoid limiting the procurement to a single, sole-source vendor, or (3) if insufficient competition would result.

VII. Rules of Origin

The Conference Agreement retains the current rules of origin for determining whether or not a *product* is American. However, it requires the Administrator of the Office of Federal Procurement Policy to conduct a study to determine what factors should be used to make such rule of origin determinations. The Administrator is to complete his study 18 months from enactment of the provision.

VIII. Special Rule for Services

With regard to *services,* a contractor or subcontractor is considered foreign if it is owned or controlled, directly or indirectly, by citizens or nationals of a foreign country. The Conference Agreement adopts criteria with regard to construction service contracts for implementing this rule of origin consistent with the criteria currently used to implement Section 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988. With regard to other services, the Administrator of OFPP, after public hearings, is to issue policy guidance to the agencies no later than 180 days after enactment.

IX. Sunset

The provision is sunsetted on April 30, 1996 unless reauthorized by Congress at an earlier date.

PATENT LAW

(Subconference No. 11)

I. Process Patents

A. Gives process patent owners the right to exclude others from using or selling in the United States, or importing into the United States products made by that process. Any such unauthorized act becomes an act of patent infringement under Title 35, United States Code.

B. Limits remedies against noncommercial users or retailers by requiring exhaustion of remedies against importers and nonretailer sellers. Excludes from liability products which have been materially changed by subsequent processes or products which are trivial and nonessential components of another product.

C. Excludes from the damage limitation provision those who practiced the process or those who had knowledge before the infringement that the patent process was used.

D. Provides no remedies against products in possession or in transit at the time of notice. The notice that triggers infringement liability is actual knowledge, or receipt of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person it is likely that a product was made by an infringing process.

E. Provides that compliance with the request for disclosure provision is evidence of good faith in an infringement action.

F. Presumes that a product has been made by the patented process if the court finds there is a substantial likelihood that the product was made in violation of the process patent and the claimant has made a reasonable effort to determine the process actually used.

G. Establishes an effective date of six months following date of enactment for goods imported after such effective date. Persons in business using, selling or importing goods already in production on January 1, 1988 are exempt, except those who are parties in certain cases before the ITC. Reports on effect of legislation to be submitted by Secretary of Commerce.

II. Pharmaceutical Patent Extension

A. Extends the patent on gemfibrozil for 3½ years in the form of a private patent bill.

III. Patent Law Foreign Filing Amendments Act

A. Permits an applicant to file "modification, amendments and supplements containing additional subject matter," with a foreign patent office without procuring a special license. Clarifies the situations in which an inventor may be granted a retroactive license.

SMALL BUSINESS

(Subconference No. 12)

I. Office of International Trade

The legislation provides increased authority and direction for the Small Business Administration's Office of International Trade, and authorizes $3.5 million to perform the functions outlined in the bill.

II. Export Assistance

Provides an additional $5 million in export assistance grants to be used by the Small Business Development Center Network to provide export related services to small business.

1. Such export services include providing information to small businesses on existing trade promotion and trade financing programs, both private and public, as well as on translation services, trade data and other services useful to exporting.

2. Such export assistance will be modeled on successful programs presently in operation in certain Small Business Development Centers.

3. Funding for export assistance would be limited to the SBDC network, though, under certain conditions, others would be eligible for the grant funding. Specifically, the agreement will allow non-profit oganizations in a state which does not have an SBDC to be eligible for export assistance funding. Non-profits will also be eligible for funding in states where an SBDC has not applied.

III. SBA Loans

The agreement will increase the lending limit for the 7(a) and 504 SBA loan programs from $500,000 to $750,000, and will also allow for guaranteed loans between $750,000 and $1,000,000 to be made for trade oriented industries only. This is bolstered by combining the $1 million guarantee with up to $250,000 for working capital under the 7(a) program. This financing arrangement would be essentially the same as a guaranteed bank loan, with a requirement that such loans be sold in the secondary market.

IV. Miscellaneous

A. Requires SBA to prepare reports on policy options for a number of export related issues affecting small business, such as expedited trade remedies procedures for small business.

B. Expresses the sense of the Congress that small business interests have not been adequately represented in trade negotiations, that the Administrator of SBA should be consulted in any new

round of trade talks and that the U.S. Trade Representative should have on his staff a full-time assistant for small business.

C. An independent office of Trade Remedy Assistance will be established in the International Trade Commission under a different title of The Omnibus Trade Bill. The office will be required to provide assistance to small business. The Small Business Title requires the Small Business Administration to facilitate small businesses' access to the office. In addition, a report on the costs incurred by small business in pursuing legitimate claims under the trade laws, and other possible federal assistance in this area is ordered by this title.

COMPETITIVENESS POLICY COUNCIL

(Subconference No. 13)

I. Establishment of Council

The Conference Agreement establishes the Competitiveness Policy Council (CPC) comprised of government, business, labor, and academic leaders. The CPC is an independent body subject to the strictures of the Federal Advisory Committee Act (FACA). It will serve as a forum for the discussion and evaluation of U.S. competitiveness policy.

II. Membership

The CPC will have 12 members—4 appointed by the President, 4 appointed by the majority and minority leaders of the Senate, and 4 appointed by the majority and minority leaders of the House of Representatives. Membership will be evenly divided between business, labor, academic, and government leaders, and no more than 6 members will come from the same political party.

III. Duties

The CPC's duties are wide ranging. Among other things, it will recommend national strategies for enhancing U.S. productivity and international competitiveness; it will comment on private sector requests for governmental assistance and the recovery plans for recipients of such relief; and it will evaluate the impact of Federal policy on U.S. competitiveness and monitor changes in the U.S. economy for their effect on the same.

IV. Subcouncils

The CPC also has the power to establish subcouncils of public and private leaders to analyze specific competitiveness issues. These subcouncils will have the same mission as the full council but concentrate their efforts on a particular industry or a policy problem that affects several industries.

V. Report

The CPC will submit a report to Congress once a year. The Conference Agreement provides an annual authorization of $5 million for the CPC for 1989 and 1990 only.

OCEAN AND AIR TRANSPORTATION

(Subconference No. 14)

I. Shipping Practices

The Foreign Shipping Practices Act of 1988 gives the Federal Maritime Commission (FMC) discretion to initiate investigations on its own motion or upon petition by any person for purpose of determining whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that: (1) adversely affect the operations of United States carriers in United States oceanborne trades; and (2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

The Act requires the FMC to complete an investigation and render a decision within 120 days after it is initiated. The FMC may however extend this period for an additional 90 days.

If the FMC determines that conditions (1) and (2) exist, in order to level the playing field for U.S. carriers it may take a variety of actions against any foreign carrier who is a contributing cause to, or whose government is a contributing cause to such conditions.

Before the FMC takes any action, the FMC must submit it to the President, who may disapprove the proposed action on national defense or foreign policy grounds.

The FMC is required to file an annual status report with the Congress with respect to its experience in implementing the legislation.

Finally, the legislation reestablishes the authority of the Department of Commerce to provide assistance to mobile trade fair projects without requiring a specific or new authorization or appropriation.

II. International Air Transportation

A. Current law establishes procedures for United States air carriers to file complaints with the Department of Transportation that a foreign government or instrumentality, including a foreign air carrier, is engaging in discriminatory practices against a United States air carrier or imposing unreasonable restraints on access of a United States air carrier to foreign markets. Current law further provides that if the Secretary of Transportation determines that it is in the public interest to eliminate such practices or restructuring, the Secretary may take remedial actions, including suspending or revoking a foreign air carrier's permit or tariff.

B. The Conference Agreement shortens the deadline from 180 days to 90 days for the Secretary of Transportation to act on complaints, but also establishes conditions by which the deadline can be extended for another 90 days. The Agreement also requires consultation with the Department of Commerce and the United States Trade Representative, in addition to the Department of State, which is all that is required under current law. The Agreement also requires reports to Congressional Committees by the Secretary of Transportation on actions taken on complaints.

PESTICIDE MONTORING

(Subconference No. 15)

I. Pesticide Monitoring and Enforcement Information

This provision requires the Secretary of Health and Human Services to establish computerized data management systems to track and evaluate the results of the Food and Drug Administration's program for monitoring domestic and imported food products for pesticide residues. The information summarized under this provision must be compiled annually and made available to Federal and State agencies and other interested persons.

II. Foreign Pesticide Information

This provision requires the Secretary of Health and Human Services to enter cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Adminsitration. The cooperative agreements will specify the means by which such foreign countries will provide to the Secretary of Health and Human Services current information on pesticide use in such countries.

If the Secretary is unable to enter a cooperative agreement with a major food importing Nation, the Secretary is required, to the extent practicable, to obtain information on pesticide use in such country from other Federal or international agencies or private sources. Foreign pesticide use information collected under this provision must be made available to State agencies engaged in the monitoring of imported food for pesticide residues.

III. Pesticide Analytical Methods

This provision requires the Secretary of Health and Human Services to develop a research plan for the development and validation of new and improved methods for the detection of pesticide residues and mandates the Agency to conduct a review to determine the potential use of rapid pesticide detection methods.

FEDERAL BUDGET DEFICIT

(Subconference No. 16)

The Conference Agreement requires the Office of Management and Budget and the two Congressional Budget Committee to assess annually the impact of the federal budget on the U.S. trade balance and other important economic indicators. OMB and the Committees are to project, for the fiscal year in which the budget is submitted, the amount of Government borrowing in private credit markets, net domestic savings, net private domestic investment, the merchandise trade and current accounts, U.S. foreign indebtedness, and the effect of Government borrowing on interest and exchange rates.

SEMATECH AND COMPETITIVENESS IMPACT STATEMENT

(Subconference No. 17)

I. Competitiveness Impact Statements

The President or the head of the appropriate department or agency must include in every recommendation or report made to Congress on legislation which may affect U.S. competitiveness in domestic and foreign markets, a statement of the impact of such legislation on international trade and public interest of the U.S. and the ability of U.S. firms engaged in the manufacture, sale, distribution or provision of goods and services to compete in foreign or domestic markets. This requirement would sunset in six years after the date of enactment.

II. Study and Report on Sematech

A. The Council on Federal Participation in Sematech (established in P.L. 100-180) is required to conduct a study under the direction of the Undersecretary of Commerce for Economic Affairs, of the progress being made towards achieving the defense and civilian goals of Sematech and to report annually to Congress on these matters in each year in which Federal funds are extended.

B. The reports shall include an identification of potential sources of Federal funds, recommendations concerning methods and terms of such support, and an exploration of the feasibility of recoupment of the federal investment in the event of royalties or fees resulting from the licensing of Sematech technology or as a result of its dissolution and sale of its assets. In addition, the reports shall enumerate the long and short range civilian technology and commercialization goals of Sematech, describe how the major components of the Sematech program are designed to achieve these goals, and report on the annual progress of each of the components.

III. National Trade Data Bank

A. This provision establishes a National Trade Data Bank to be managed by the Secretary of Commerce in the Department of Commerce and consisting of both an export promotion data system and an international economic data system. The expert promotion data system shall contain information designed to be useful to business; the international economic data system shall contain information useful to policymakers and analysts concerned with international economics.

B. An Interagency Trade Data Advisory Committee is established, comprised of the heads of departments and agencies concerned with trade policy. The Committee would be chaired by the Secretary of Commerce and would advise the Secretary regarding the operation of the Trade Data Bank.

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